

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

UNITED STATES OF AMERICA

v.

**HERMAN LEE ESTES, JR.
DANIEL FRANK HEGGINS a/k/a
Tebnu El-Bey**

Case No. 7:23-CR-00042

**SEALED SUPERSEDING
INDICTMENT**

In violation of:

**18 U.S.C. § 287
18 U.S.C. § 1341
18 U.S.C. § 1343
18 U.S.C. § 1344(2)
18 U.S.C. § 1349
18 U.S.C. § 3147**

INTRODUCTION

The Grand Jury charges that at all times material to this Indictment:

1. A federal grand jury sitting in the Western District of Virginia returned a felony indictment against HERMAN LEE ESTES, JR. on or about September 17, 2020, in Case Number 4:20cr00024.

2. Pursuant to the Bail Reform Act of 1966, ESTES was released on a \$15,000 unsecured bond by the United States District Court for the Western District of Virginia. An Order Setting Conditions of Release was signed by ESTES and entered by the court on April 11, 2022. One of the conditions prohibited ESTES from violating any federal, state or local crime while on release. The Order further notified ESTES of the potential effect of committing a federal felony offense while on pretrial release.

3. On or about November 12, 2022, ESTES filed an amended U.S. Individual Income Tax Return, Form 1040, for calendar year 2021. On this form, ESTES falsely claimed a refund of \$18.3 million.

4. On or about January 17, 2023, ESTES contacted a real estate agent online about a listed property. ESTES falsely represented to the real estate agent that he was due a tax refund of \$18.3 million for calendar year 2021, which would be transferred to his estate as part of a trust. ESTES told the real estate agent he was looking for a residential property within his budget of \$1.5 million. Based on ESTES's false representation, the real estate agent showed ESTES a property then listed for sale for \$1.2 million in Roanoke County ("the Subject Property").

5. On January 25, 2023, ESTES entered a plea of guilty to a federal felony charge in Case Number 4:20cr00024. He was continued on the same terms and conditions of pretrial release pending sentencing.

6. On or about March 15, 2023, ESTES filed a U.S. Individual Income Tax Return, Form 1040, for calendar year 2022. On this form, ESTES falsely claimed a refund of \$2.9 million.

7. In or around March, 2023, ESTES again contacted the real estate agent. ESTES falsely stated that the tax refund had cleared, and he wanted to move forward with the purchase of the Subject Property. At ESTES's direction, the real estate agent prepared a cash offer of \$1.3 million.

8. As proof of funds for the cash offer, ESTES provided a letter dated March 29, 2023, which he falsely represented showed that he had been approved for a private real

estate loan in the amount of \$1,315,000.00 for the purchase of the Subject Property. However, ESTES had not been approved for a private real estate loan. ESTES used this letter for a purpose other than that for which it was intended in order to further his scheme.

9. ESTES also provided the real estate agent with a phone number for DANIEL FRANK HEGGINS a/k/a Tebnu El-Bey, whom ESTES falsely represented to be the manager for ESTES's purported trust. On or about March 27, 2023, the real estate agent contacted HEGGINS at the phone number provided by ESTES. HEGGINS falsely held himself out as ESTES's trust manager. HEGGINS asked the real estate agent questions about the real estate contract. HEGGINS purported to be the person issuing the proof of funds letter for the amount of the real estate transaction and approving the use of trust funds.

10. ESTES's offer was accepted and the contract was ratified on or about March 29, 2023.

11. In anticipation of closing, ESTES provided necessary information to the settlement company.

12. On April 10, 2023, ESTES uploaded through a secure portal administered by a cloud-based eClosing platform, a 62-page document he referred to as "Extension of Credit

Documents for HERMAN LEE ESTES JR TR.” ESTES falsely represented these to be trust documents.

13. ESTES further informed the settlement company he did not deal with public banks and dealt directly with the Federal Reserve Bank.

14. As payment for the cash purchase of the Subject Property, ESTES tendered a fraudulent cashier’s check with a routing number purported to be drawn off the Federal Reserve Bank of Richmond in the amount of \$1,307,199.43, which was signed by ESTES.

15. The Federal Reserve Bank of Richmond is a “financial institution” as defined in 18 U.S.C. § 20(7).

16. ESTES shipped the fraudulent cashier’s check from Fieldale, Virginia to the settlement company via FedEx, a private and commercial interstate carrier, on or about April 12, 2023. The fraudulent check was delivered to the settlement company in Roanoke, Virginia the following day.

17. On or about April 13, 2023, the fraudulent check was deposited by the settlement company into its account at American National Bank and Trust, a financial institution insured by the Federal Deposit Insurance Corporation. The funds were credited to the account the same day.

18. Closing for the sale of the Subject Property was held on or about April 14, 2023. The deed was recorded with the Circuit Court of Roanoke County the same day, and ESTES took possession of the Subject Property.

19. On or about April 17, 2023, the fraudulent cashier’s check was returned by the Federal Reserve Bank of Richmond and marked fraudulent. Funds in the amount of

\$1,307,199.43 were debited from the settlement company's account at American National Bank and Trust.

20. ESTES remained on the same pretrial conditions of release through his sentencing in Case Number 4:20cr00024, which was held on June 6, 2023.

COUNT ONE
(Conspiracy)

The Grand Jury charges that:

21. The Introduction of this Superseding Indictment alleged in paragraphs 1-20 are realleged and incorporated by reference in their entirety as if set forth herein.

22. From in or around January, 2023, through in or around April, 2023, in the Western District of Virginia and elsewhere, HERMAN LEE ESTES, JR. and DANIEL FRANK HEGGINS a/k/a Tebnu El-Bey, conspired to knowingly and willfully execute and attempt to execute a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises in connection with the real estate purchase of the Subject Property, by transmitting or causing to be transmitted by means of wire communication in interstate commerce communications, signals and writings, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

23. It was a purpose of the conspiracy for ESTES and HEGGINS to falsely represent to ESTES's real estate agent and other parties to the real estate transaction that ESTES had funds available sufficient to make a cash offer of \$1,315,000 to purchase the Subject Property, so that ESTES could fraudulently purchase the Subject Property.

Manner and Means of the Conspiracy

24. The manner and means by which ESTES and HEGGINS sought to accomplish the objects and purposes of the conspiracy included the following:
- a. ESTES obtained a proof of funds letter, which indicated he had been approved for a private real estate loan for the purchase of the Subject Property when he had not been approved for a private real estate loan;
 - b. ESTES provided his real estate agent with a phone number for HEGGINS, whom ESTES falsely represented to be the manager of ESTES's purported trust;
 - c. ESTES's real estate agent called HEGGINS, who falsely held himself out as ESTES's trust manager with the authority to approve the real estate transaction;
 - d. HEGGINS falsely held himself out as the individual issuing the proof of funds letter and purported to approve the use of trust funds for the cash purchase of the Subject Property.
25. HERMAN LEE ESTES, JR. committed this offense while on pretrial release under Chapter 207 of Title 18 (18 U.S.C. § 3141 *et seq.*) pursuant to an Order from the United States District Court for the Western District of Virginia dated April 11, 2022, which notified the defendant of the potential effect of committing an offense while on pretrial release.
26. All in violation of Title 18, United States Code, Sections 1349 and 3147.

COUNTS TWO AND THREE
(Wire Fraud)

The Grand Jury charges that:

27. The Introduction of this Superseding Indictment alleged in paragraphs 1-20 are realleged and incorporated by reference in their entirety as if set forth herein.
28. From in or around January, 2023, through in or around April, 2023, HERMAN LEE ESTES, JR. and DANIEL FRANK HEGGINS a/k/a Tebnu El-Bey, with the intent to defraud, devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises in connection with the real estate purchase of the Subject Property, and willfully participated in such a scheme with knowledge of its fraudulent nature.
29. It was a purpose of the scheme for HERMAN LEE ESTES, JR. and DANIEL FRANK HEGGINS a/k/a Tebnu El-Bey to falsely represent to the parties to the real estate transaction that HERMAN LEE ESTES, JR. had funds available sufficient to make a cash offer of \$1,315,000 to purchase the Subject Property, so that ESTES could fraudulently purchase the Subject Property.
30. On or about the specific dates specified in each count below, in the Western District of Virginia and elsewhere, HERMAN LEE ESTES, JR. and DANIEL FRANK HEGGINS a/k/a Tebnu El-Bey, for the purpose of executing the above-described scheme and artifice to defraud, transmitted or caused to be transmitted by means of wire communication in interstate commerce communications, signals and writings as described below:

<u>COUNT</u>	<u>DATE</u>	<u>DEFENDANT</u>	<u>WIRE DESCRIPTION</u>
TWO	March 27, 2023	DANIEL FRANK HEGGINS a/k/a Tebnu El-Bey HERMAN LEE ESTES, JR.	Falsely representing HEGGINS to be ESTES's trust manager with authority to approve use of trust funds for real estate transaction in telephone communication with ESTES's real estate agent set up by ESTES
THREE	April 10, 2023	HERMAN LEE ESTES, JR.	Uploading "Extension of Credit Documents for HERMAN LEE ESTES JR TR" through the secure portal administered by the settlement company's cloud-based eClosing platform

31. HERMAN LEE ESTES, JR. committed these offenses while on pretrial release under Chapter 207 of Title 18 (18 U.S.C. § 3141 *et seq.*) pursuant to an Order from the United States District Court for the Western District of Virginia dated April 11, 2022, which notified the defendant of the potential effect of committing an offense while on pretrial release.

32. All in violation of Title 18, United States Code, Sections 1343 and 3147.

COUNT FOUR
(Mail Fraud)

The Grand Jury further charges that:

33. The Introduction of this Superseding Indictment alleged in paragraphs 1-20 are realleged and incorporated by reference in their entirety as if set forth herein.

34. From in or around January, 2023, through in or around April, 2023, in the Western District of Virginia and elsewhere, HERMAN LEE ESTES, JR., with the intent to

defraud, devised the above-described scheme and artifice to defraud and obtain money and property by materially false and fraudulent pretenses, representations, and promises.

35. On or about April 12, 2023, in the Western District of Virginia, for the purpose of executing the above-described scheme and artifice to defraud, HERMAN LEE ESTES, JR. knowingly caused to be delivered by a private and commercial interstate carrier a fraudulent cashier's check with a routing number purported to be drawn off the Federal Reserve Bank of Richmond in the amount of \$1,307,199.43.

36. HERMAN LEE ESTES, JR. committed this offense while on pretrial release under Chapter 207 of Title 18 (18 U.S.C. § 3141 *et seq.*) pursuant to an Order from the United States District Court for the Western District of Virginia dated April 11, 2022, which notified the defendant of the potential effect of committing an offense while on pretrial release.

37. All in violation of Title 18, United States Code, Sections 1341 and 3147.

COUNT FIVE
(Bank Fraud)

The Grand Jury further charges that:

38. The Introduction of this Superseding Indictment alleged in paragraphs 1-20 are realleged and incorporated by reference in their entirety as if set forth herein.

39. From in or about January, 2023, through in or around April, 2023, in the Western District of Virginia and elsewhere, HERMAN LEE ESTES, JR., with the intent to defraud, devised and executed and did attempt to execute the above-described scheme to obtain monies, funds, credits, assets, securities, and other property owned by, or under the

custody and control of, the Federal Reserve Bank of Richmond, a financial institution as defined in Title 18, United States Code, Section 20, by means of false and fraudulent pretenses, representations, and promises.

40. HERMAN LEE ESTES, JR. committed this offense while on pretrial release under Chapter 207 of Title 18 (18 U.S.C. § 3141 et seq.) pursuant to an Order from the United States District Court for the Western District of Virginia dated April 11, 2022, which notified the defendant of the potential effect of committing an offense while on pretrial release.

41. All in violation of Title 18, United States Code, Sections 1344(2), and 3147.

COUNT SIX
(False Claim)

The Grand Jury charges that:

42. The Introduction of this Superseding Indictment alleged in paragraphs 1-20 are realleged and incorporated by reference in their entirety as if set forth herein.

43. On or about November 12, 2022, in the Western District of Virginia and elsewhere, HERMAN LEE ESTES, JR., made and presented, and caused to be made and presented, to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$18.3 million, knowing that claim to be false, fictitious, and fraudulent. HERMAN LEE ESTES, JR. made the claim by preparing and causing to be prepared, and presenting and causing to be presented to the Internal Revenue Service, an amended U.S.

Individual Income Tax Return, Form 1040, for calendar year 2021, requesting a refund to which HERMAN LEE ESTES, JR knew he was not entitled.

44. HERMAN LEE ESTES, JR. committed this offense while on pretrial release under Chapter 207 of Title 18 (18 U.S.C. § 3141 *et seq.*) pursuant to an Order from the United States District Court for the Western District of Virginia dated April 11, 2022, which notified the defendant of the potential effect of committing an offense while on pretrial release.

45. All in violation of Title 18, United States Code, Section 287.

COUNT SEVEN
(False Claim)

The Grand Jury charges that:

46. The Introduction of this Superseding Indictment alleged in paragraphs 1-20 are realleged and incorporated by reference in their entirety as if set forth herein.

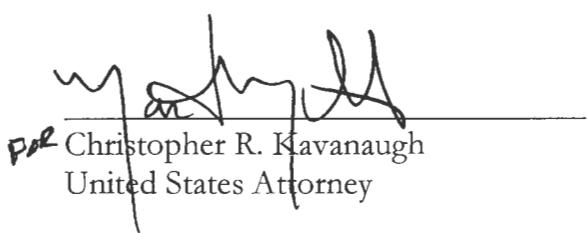
47. On or about March 19, 2023, in the Western District of Virginia and elsewhere, HERMAN LEE ESTES, JR., made and presented, and caused to be made and presented, to the Internal Revenue Service, an agency of the United States Department of the Treasury, a claim against the United States for payment of a refund of taxes in the amount of \$2.9 million, knowing that claim to be false, fictitious, and fraudulent. HERMAN LEE ESTES, JR. made the claim by preparing and causing to be prepared, and presenting and causing to be presented to the Internal Revenue Service, a U.S. Individual Income Tax Return, Form 1040, for calendar year 2022, requesting a refund to which HERMAN LEE ESTES, JR knew he was not entitled.

48. HERMAN LEE ESTES, JR. committed this offense while on pretrial release under Chapter 207 of Title 18 (18 U.S.C. § 3141 *et seq.*) pursuant to an Order from the United States District Court for the Western District of Virginia dated April 11, 2022, which notified the defendant of the potential effect of committing an offense while on pretrial release.

49. All in violation of Title 18, United States Code, Section 287.

A TRUE BILL, this 16th day of November, 2023.

/s/ Foreperson
FOREPERSON


Christopher R. Kavanaugh
United States Attorney